

AMENDED IN SENATE MAY 5, 2014

SENATE BILL

No. 1269

Introduced by Senator Beall

February 21, 2014

An act to amend Sections ~~1255, 1275, 1255~~ and 128740 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1269, as amended, Beall. General acute care hospitals.

~~(1) Existing~~

Existing law establishes the State Department of Public ~~health~~ *Health* and sets forth its powers and duties, including, ~~but not limited to,~~ the licensing and regulation of health facilities, ~~including, but not limited to,~~ *which include* general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law provides for the application by general acute care hospitals for supplemental services approval and requires the department to, upon issuance and renewal of a license for certain health facilities, separately identify on the license each supplemental service. Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of the every calendar quarter.

This bill would require a general acute care hospital that provides observation services, as defined, *in an observation unit, as defined*, to

apply for approval from the department to provide these services either as supplemental services or under a special permit.

The bill would require the department to adopt regulations for the provision of observation services *in an observation unit* under a special permit and as ~~an approved~~ a supplemental service under the general acute care hospital's license. *The bill would additionally set forth standards that apply to a hospital when providing observation services, generally, and, more specifically, to a hospital when providing observation services in an observation unit.*

The bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

~~(2) This bill would require the department to adopt and enforce staffing standards for certain outpatient services and all ambulatory surgery centers, as specified, and would make other conforming changes.~~

~~(3) Because~~

Because a violation of these provisions by a health facility would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1253.7 is added to the Health and Safety
2 Code, to read:
3 1253.7. (a) (1) For purposes of this chapter, "observation
4 services" means outpatient services provided by a general acute
5 care hospital to those patients described in subdivision (e) who
6 have unstable or uncertain conditions potentially serious enough
7 to warrant close observation, but not so serious as to warrant
8 inpatient admission to the hospital. Observation services may
9 include the use of a bed, monitoring by nursing and other staff,
10 and any other services that are reasonable and necessary to safely
11 evaluate a patient's condition or determine the need for a possible
12 inpatient admission to the hospital.

1 (2) For purposes of this chapter, “observation unit” means an
2 area where observation services are provided in a setting outside
3 of an inpatient unit of a general acute care hospital.

4 (b) Observation services may be provided for a period of no
5 more than 24 hours.

6 (c) A general acute care hospital that provides observation
7 services *in an observation unit* shall do either of the following:

8 (1) Apply for approval from the department, pursuant to
9 subdivision (a) of Section 1253.6, to provide the services *in an*
10 *observation unit* as a supplemental service.

11 (2) Apply for a special permit from the department pursuant to
12 subdivision (c) of Section 1277 to provide the services *in an*
13 *observation unit* as a special service.

14 (d) The department shall adopt standards and regulations,
15 pursuant to subdivision (a) of Section 1275, for the provision of
16 observation services *in an observation unit* under a special permit
17 and as a supplemental service under the general acute care
18 hospital’s license.

19 (e) Observation services may be ordered by an appropriately
20 licensed practitioner only for any of the following:

21 (1) A patient who has received triage services in the emergency
22 department but has not been admitted as an inpatient.

23 (2) A patient who has received outpatient surgical services and
24 procedures.

25 (3) A patient who has been admitted as an inpatient and is
26 discharged to ~~an observation center~~ *receive observation services*.

27 (4) A patient previously seen in a physician’s office or outpatient
28 clinic.

29 (f) Notwithstanding subdivisions (d) and (e) of Section 1275,
30 observation services provided by the general acute care hospital
31 *in an observation unit*, including the services provided in a
32 freestanding physical plant, as defined in subdivision (g) of Section
33 1275, shall comply with the same staffing standards, including,
34 but not limited to, licensed nurse-to-patient ratios, as supplemental
35 emergency services.

36 (g) A patient receiving observation services shall receive written
37 notice that his or her care is being provided ~~in~~ *on* an outpatient
38 ~~setting~~ *basis*, and that this may impact reimbursement by Medicare,
39 Medi-Cal, or private payers of health care services, or cost-sharing
40 arrangements through his or her health care coverage.

(h) ~~All areas in which observation services are provided~~
Observation units shall be marked by signage identifying the area as an outpatient area. The signage shall use the term “outpatient” in the title of the area to clearly indicate to all patients and family members that the observation services provided in the center are not inpatient services.

(i) Observation services shall be deemed outpatient or ambulatory services that are revenue-producing cost centers associated with hospital-based or satellite service locations that emphasize outpatient care. Identifying an observation ~~service unit~~ by a name or term other than that used in this subdivision does not exempt the general acute care hospital from the requirement ~~of providing to obtain approval from the department to provide~~ observation services as a distinct supplemental service or a distinct special permit service, as applicable, *when the observation services are provided in a setting outside of an inpatient unit of a general acute care hospital.*

SEC. 2. Section 1255 of the Health and Safety Code is amended to read:

1255. (a) In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services, including, but not limited to, the following:

- (1) Radiation therapy department.
- (2) Burn center.
- (3) Emergency center.
- (4) Hemodialysis center (or unit).
- (5) Psychiatric.
- (6) Intensive care newborn nursery.
- (7) Cardiac surgery.
- (8) Cardiac catheterization laboratory.
- (9) Renal transplant.
- (10) Observation services *provided in an observation unit* as defined in ~~Section 1253.7~~ 1253.7.
- (11) Other special services as the department may prescribe by regulation.

(b) A general acute care hospital that exclusively provides acute medical rehabilitation center services may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

1 (c) The department shall adopt standards for special services
2 and other regulations as may be necessary to implement this
3 section.

4 (d) (1) For cardiac catheterization laboratory service, the
5 department shall, at a minimum, adopt standards and regulations
6 that specify that only diagnostic services, and what diagnostic
7 services, may be offered by a general acute care hospital or a
8 multispecialty clinic as defined in subdivision (l) of Section 1206
9 that is approved to provide cardiac catheterization laboratory
10 service but is not also approved to provide cardiac surgery service,
11 together with the conditions under which the cardiac catheterization
12 laboratory service may be offered.

13 (2) Except as provided in paragraph (3), a cardiac catheterization
14 laboratory service shall be located in a general acute care hospital
15 that is either licensed to perform cardiovascular procedures
16 requiring extracorporeal coronary artery bypass that meets all of
17 the applicable licensing requirements relating to staff, equipment,
18 and space for service, or shall, at a minimum, have a licensed
19 intensive care service and coronary care service and maintain a
20 written agreement for the transfer of patients to a general acute
21 care hospital that is licensed for cardiac surgery or shall be located
22 in a multispecialty clinic as defined in subdivision (l) of Section
23 1206. The transfer agreement shall include protocols that will
24 minimize the need for duplicative cardiac catheterizations at the
25 hospital in which the cardiac surgery is to be performed.

26 (3) Commencing March 1, 2013, a general acute care hospital
27 that has applied for program flexibility on or before July 1, 2012,
28 to expand cardiac catheterization laboratory services may utilize
29 cardiac catheterization space that is in conformance with applicable
30 building code standards, including those promulgated by the Office
31 of Statewide Health Planning and Development, provided that all
32 of the following conditions are met:

33 (A) The expanded laboratory space is located in the building
34 so that the space is connected to the general acute care hospital by
35 an enclosed all-weather passageway that is accessible by staff and
36 patients who are accompanied by staff.

37 (B) The service performs cardiac catheterization services on no
38 more than 25 percent of the hospital's inpatients who need cardiac
39 catheterizations.

(C) The service complies with the same policies and procedures approved by hospital medical staff for cardiac catheterization laboratories that are located within the general acute care hospital, and the same standards and regulations prescribed by the department for cardiac catheterization laboratories located inside general acute care hospitals, including, but not limited to, appropriate nurse-to-patient ratios under Section 1276.4, and with all standards and regulations prescribed by the Office of Statewide Health Planning and Development. Emergency regulations allowing a general acute care hospital to operate a cardiac catheterization laboratory service shall be adopted by the department and by the Office of Statewide Health Planning and Development by February 28, 2013.

(D) Emergency regulations implementing this paragraph have been adopted by the department and by the Office of Statewide Health Planning and Development by February 28, 2013.

(E) This paragraph shall not apply to more than two general acute care hospitals.

(4) After March 1, 2014, an acute care hospital may only operate a cardiac catheterization laboratory service pursuant to paragraph (3) if the department and the Office of Statewide Health Planning and Development have adopted regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that provide adequate protection to patient health and safety including, but not limited to, building standards contained in Part 2.5 (commencing with Section 18901) of Division 13.

(5) Notwithstanding Section 129885, cardiac catheterization laboratory services expanded in accordance with paragraph (3) shall be subject to all applicable building standards. The Office of Statewide Health Planning and Development shall review the services for compliance with the OSHPD 3 requirements of the most recent version of the California Building Standards Code.

(e) For purposes of this section, “multispecialty clinic,” as defined in subdivision (l) of Section 1206, includes an entity in which the multispecialty clinic holds at least a 50-percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

1 (2) Prior to March 1, 1985, the multispecialty clinic did not
2 offer cardiac catheterization services, dynamic multiplane imaging,
3 or other types of coronary or similar angiography.

4 (3) The multispecialty clinic creates only one entity that operates
5 its service at one site.

6 (4) These entities shall have the equipment and procedures
7 necessary for the stabilization of patients in emergency situations
8 prior to transfer and patient transfer arrangements in emergency
9 situations that shall be in accordance with the standards established
10 by the Emergency Medical Services Authority, including the
11 availability of comprehensive care and the qualifications of any
12 general acute care hospital expected to provide emergency
13 treatment.

14 (f) Except as provided in this section and in Sections 128525
15 and 128530, under no circumstances shall cardiac catheterizations
16 be performed outside of a general acute care hospital or a
17 multispecialty clinic, as defined in subdivision (l) of Section 1206,
18 that qualifies for this definition as of March 1, 1983.

19 ~~SEC. 3. Section 1275 of the Health and Safety Code is amended~~
20 ~~to read:~~

21 ~~1275. (a) The department shall adopt, amend, or repeal, in~~
22 ~~accordance with Chapter 3.5 (commencing with Section 11340)~~
23 ~~of Part 1 of Division 3 of Title 2 of the Government Code and~~
24 ~~Chapter 4 (commencing with Section 18935) of Part 2.5 of Division~~
25 ~~13, any reasonable rules and regulations as may be necessary or~~
26 ~~proper to carry out the purposes and intent of this chapter and to~~
27 ~~enable the department to exercise the powers and perform the~~
28 ~~duties conferred upon it by this chapter, not inconsistent with any~~
29 ~~statute of this state including, but not limited to, the State Building~~
30 ~~Standards Law, Part 2.5 (commencing with Section 18901) of~~
31 ~~Division 13.~~

32 ~~All regulations in effect on December 31, 1973, which were~~
33 ~~adopted by the State Board of Public Health, the State Department~~
34 ~~of Public Health, the State Department of Mental Hygiene, or the~~
35 ~~State Department of Health relating to licensed health facilities~~
36 ~~shall remain in full force and effect until altered, amended, or~~
37 ~~repealed by the director or pursuant to Section 25 or other~~
38 ~~provisions of law.~~

39 ~~(b) Notwithstanding this section or any other law, the Office~~
40 ~~of Statewide Health Planning and Development shall adopt and~~

1 enforce regulations prescribing building standards for the adequacy
2 and safety of health facility physical plants.

3 ~~(e) The building standards adopted by the State Fire Marshal,~~
4 ~~and the Office of Statewide Health Planning and Development~~
5 ~~pursuant to subdivision (b), for the adequacy and safety of~~
6 ~~freestanding physical plants housing outpatient services of a health~~
7 ~~facility licensed under subdivision (a) or (b) of Section 1250 shall~~
8 ~~not be more restrictive or comprehensive than the comparable~~
9 ~~building standards established, or otherwise made applicable, by~~
10 ~~the State Fire Marshal and the Office of Statewide Health Planning~~
11 ~~and Development to clinics and other facilities licensed pursuant~~
12 ~~to Chapter 1 (commencing with Section 1200).~~

13 ~~(d) Except as provided in subdivision (f), the licensing standards~~
14 ~~adopted by the department under subdivision (a) for outpatient~~
15 ~~services located in a freestanding physical plant of a health facility~~
16 ~~licensed under subdivision (a) or (b) of Section 1250 shall not be~~
17 ~~more restrictive or comprehensive than the comparable licensing~~
18 ~~standards applied by the department to clinics and other facilities~~
19 ~~licensed under Chapter 1 (commencing with Section 1200).~~

20 ~~(e) Except as provided in subdivision (f), the state agencies~~
21 ~~specified in subdivisions (c) and (d) shall not enforce any standard~~
22 ~~applicable to outpatient services located in a freestanding physical~~
23 ~~plant of a health facility licensed pursuant to subdivision (a) or (b)~~
24 ~~of Section 1250, to the extent that the standard is more restrictive~~
25 ~~or comprehensive than the comparable licensing standards applied~~
26 ~~to clinics and other facilities licensed under Chapter 1~~
27 ~~(commencing with Section 1200).~~

28 ~~(f) All health care professionals providing services in settings~~
29 ~~authorized by this section shall be members of the organized~~
30 ~~medical staff of the health facility to the extent medical staff~~
31 ~~membership would be required for the provision of the services~~
32 ~~within the health facility. All services shall be provided under the~~
33 ~~respective responsibilities of the governing body and medical staff~~
34 ~~of the health facility.~~

35 ~~(g) For purposes of this section, “freestanding physical plant”~~
36 ~~means any building which is not physically attached to a building~~
37 ~~in which inpatient services are provided.~~

38 ~~(h) Notwithstanding subdivisions (d) and (e), or any other law,~~
39 ~~the department shall adopt and enforce staffing standards for~~
40 ~~supplemental outpatient surgical services provided in a freestanding~~

1 physical plant of a health facility licensed under subdivision (a)
2 of Section 1250 that are consistent with the staffing standards for
3 inpatient surgical services and postanesthesia care provided in
4 general acute care hospitals and that shall apply when the
5 freestanding physical plant provides outpatient services and
6 administers anesthesia, except local anesthesia or peripheral nerve
7 blocks, or both, in compliance with the community standard of
8 practice and in doses that have the probability of placing a patient
9 at risk for loss of the patient's life-preserving protective reflexes.

10 (i) Notwithstanding subdivisions (d) and (e), or any other law,
11 the department shall adopt and enforce staffing standards for
12 supplemental outpatient surgical services of a health facility
13 licensed under subdivision (a) of Section 1250 that are consistent
14 with the staffing standards for inpatient surgical services and
15 postanesthesia care provided in general acute care hospitals and
16 that shall apply when anesthesia, except local anesthesia or
17 peripheral nerve blocks, or both, is administered in compliance
18 with the community standard of practice and in doses that have
19 the probability of placing a patient at risk for loss of the patient's
20 life-preserving protective reflexes.

21 (j) Notwithstanding any other law, the department shall adopt
22 and enforce staffing standards for ambulatory surgery centers not
23 included in subdivisions (h) and (i) for a health facility licensed
24 under subdivision (a) of Section 1250 that are consistent with the
25 staffing standards for inpatient surgical services and postanesthesia
26 care provided in general acute care hospitals and that shall apply
27 when the ambulatory surgery center provides outpatient services
28 and administers anesthesia, except local anesthesia or peripheral
29 nerve blocks, or both, in compliance with the community standard
30 of practice, in doses that have the probability of placing a patient
31 at risk for loss of the patient's life-preserving protective reflexes.

32 ~~SEC. 4.~~

33 *SEC. 3.* Section 128740 of the Health and Safety Code is
34 amended to read:

35 128740. (a) Commencing with the first calendar quarter of
36 1992, the following summary financial and utilization data shall
37 be reported to the office by each hospital within 45 days of the
38 end of every calendar quarter. Adjusted reports reflecting changes
39 as a result of audited financial statements may be filed within four
40 months of the close of the hospital's fiscal or calendar year. The

1 quarterly summary financial and utilization data shall conform to
2 the uniform description of accounts as contained in the Accounting
3 and Reporting Manual for California Hospitals and shall include
4 all of the following:

5 (1) Number of licensed beds.

6 (2) Average number of available beds.

7 (3) Average number of staffed beds.

8 (4) Number of discharges.

9 (5) Number of inpatient days.

10 (6) Number of outpatient visits, excluding observation service
11 visits.

12 (7) Number of observation service visits and number of hours
13 of services provided.

14 (8) Total operating expenses.

15 (9) Total inpatient gross revenues by payer, including Medicare,
16 Medi-Cal, county indigent programs, other third parties, and other
17 payers.

18 (10) Total outpatient gross revenues by payer, including
19 Medicare, Medi-Cal, county indigent programs, other third parties,
20 and other payers.

21 (11) Total observation service gross revenues by payer,
22 including Medicare, Medi-Cal, county indigent programs, other
23 third parties, and other payers.

24 (12) Deductions from revenue in total and by component,
25 including the following: Medicare contractual adjustments,
26 Medi-Cal contractual adjustments, and county indigent program
27 contractual adjustments, other contractual adjustments, bad debts,
28 charity care, restricted donations and subsidies for indigents,
29 support for clinical teaching, teaching allowances, and other
30 deductions.

31 (13) Total capital expenditures.

32 (14) Total net fixed assets.

33 (15) Total number of inpatient days, outpatient visits, excluding
34 outpatient service visits, and discharges by payer, including
35 Medicare, Medi-Cal, county indigent programs, other third parties,
36 self-pay, charity, and other payers.

37 (16) Total net patient revenues by payer including Medicare,
38 Medi-Cal, county indigent programs, other third parties, and other
39 payers.

40 (17) Other operating revenue.

1 (18) Nonoperating revenue net of nonoperating expenses.

2 (b) Hospitals reporting pursuant to subdivision (d) of Section
3 128760 may provide the items in paragraphs (8), (9), (10), (12),
4 (16), (17), and (18) of subdivision (a) on a group basis, as described
5 in subdivision (d) of Section 128760.

6 (c) The office shall make available at cost, to any person, a hard
7 copy of any hospital report made pursuant to this section and in
8 addition to hard copies, shall make available at cost, a computer
9 tape of all reports made pursuant to this section within 105 days
10 of the end of every calendar quarter.

11 (d) The office shall adopt by regulation guidelines for the
12 identification, assessment, and reporting of charity care services.
13 In establishing the guidelines, the office shall consider the
14 principles and practices recommended by professional health care
15 industry accounting associations for differentiating between charity
16 services and bad debts. The office shall further conduct the onsite
17 validations of health facility accounting and reporting procedures
18 and records as are necessary to assure that reported data are
19 consistent with regulatory guidelines.

20 ~~SEC. 5.~~

21 *SEC. 4.* No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.